
A BILL FOR AN ACT

RELATING TO COMMON INTEREST COMMUNITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 421J-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§~~421J-3~~§~~ **Board of directors.** (a) Every member of
4 the board of directors shall be a member of the association.
5 However, a developer may appoint or elect directors pursuant to
6 any special voting rights or power of appointment reserved to
7 the master developer.

8 (b) The board of directors shall be composed of the number
9 and group of persons specified in the association documents.
10 There shall not be more than one representative on the board of
11 directors from any one unit that is owned by any person other
12 than the master developer or declarant.

13 (c) No person shall be elected as a member of a board of
14 directors for more than two consecutive full terms; provided
15 that this subsection shall not be construed to limit the service
16 of a holdover member if no person seeks candidacy for the
17 holdover member's position."



1 SECTION 2. Section 514A-82, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) In addition to the requirements of subsection (a), the
4 bylaws shall be consistent with the following provisions:

5 (1) At any regular or special meeting of the apartment
6 owners, any one or more members of the board of
7 directors may be removed by the apartment owners and
8 successors shall then and there be elected for the
9 remainder of the term to fill the vacancies thus
10 created. The removal and replacement shall be by a
11 vote of a majority of the apartment owners and,
12 otherwise, in accordance with all applicable
13 requirements and procedures in the bylaws for the
14 removal and replacement of directors. If removal and
15 replacement is to occur at a special association
16 meeting, the call for the meeting shall be by the
17 president or by a petition to the secretary or
18 managing agent signed by not less than twenty-five per
19 cent of the apartment owners as shown in the
20 association's record of ownership; provided that if
21 the secretary or managing agent shall fail to send out



1 the notices for the special meeting within fourteen
2 days of receipt of the petition, then the petitioners
3 shall have the authority to set the time, date, and
4 place for the special meeting and to send out the
5 notices for the special meeting in accordance with the
6 requirements of the bylaws. Except as otherwise
7 provided in this section, the meeting for the removal
8 and replacement from office of directors shall be
9 scheduled, noticed, and conducted in accordance with
10 the bylaws of the association;

11 (2) The bylaws may be amended at any time by the vote or
12 written consent of sixty-five per cent of all
13 apartment owners; provided that:

14 (A) Each one of the particulars set forth in this
15 subsection shall be embodied in the bylaws
16 always; and

17 (B) Any proposed bylaws with the rationale for the
18 proposal may be submitted by the board of
19 directors or by a volunteer apartment owners'
20 committee. If submitted by that committee, the
21 proposal shall be accompanied by a petition



1 signed by not less than twenty-five per cent of
2 the apartment owners as shown in the
3 association's record of ownership. The proposed
4 bylaws, rationale, and ballots for voting on any
5 proposed bylaw shall be mailed by the board of
6 directors to the owners at the expense of the
7 association for vote or written consent without
8 change within thirty days of the receipt of the
9 petition by the board of directors. The vote or
10 written consent required to adopt the proposed
11 bylaw shall not be less than sixty-five per cent
12 of all apartment owners; provided that the vote
13 or written consent must be obtained within three
14 hundred sixty-five days after mailing for a
15 proposed bylaw submitted by either the board of
16 directors or a volunteer apartment owners'
17 committee. If the bylaw is duly adopted, then
18 the board shall cause the bylaw amendment to be
19 recorded in the bureau of conveyances or filed in
20 the land court, as the case may be. The
21 volunteer apartment owners' committee shall be



1 precluded from submitting a petition for a
2 proposed bylaw that is substantially similar to
3 that which has been previously mailed to the
4 owners within one year after the original
5 petition was submitted to the board.

6 This paragraph shall not preclude any apartment owner
7 or voluntary apartment owners' committee from
8 proposing any bylaw amendment at any annual
9 association meeting;

10 (3) Notices of association meetings, whether annual or
11 special, shall be sent to each member of the
12 association of apartment owners at least fourteen days
13 prior to the meeting and shall contain at least:

- 14 (A) The date, time, and place of the meeting;
15 (B) The items on the agenda for the meeting; and
16 (C) A standard proxy form authorized by the
17 association, if any;

18 (4) No resident manager or managing agent shall solicit,
19 for use by the manager or managing agent, any proxies
20 from any apartment owner of the association of owners
21 that employs the resident manager or managing agent,



1 nor shall the resident manager or managing agent cast
2 any proxy vote at any association meeting except for
3 the purpose of establishing a quorum. Any board of
4 directors that intends to use association funds to
5 distribute proxies, including the standard proxy form
6 referred to in paragraph (3), shall first post notice
7 of its intent to distribute proxies in prominent
8 locations within the project at least thirty days
9 prior to its distribution of proxies; provided that if
10 the board receives within seven days of the posted
11 notice a request by any owner for use of association
12 funds to solicit proxies accompanied by a statement,
13 the board shall mail to all owners either:

14 (A) A proxy form containing the names of all owners
15 who have requested the use of association funds
16 for soliciting proxies accompanied by their
17 statements; or

18 (B) A proxy form containing no names, but accompanied
19 by a list of names of all owners who have
20 requested the use of association funds for
21 soliciting proxies and their statements.



- 1 The statement shall not exceed one hundred words,
2 indicating the owner's qualifications to serve on the
3 board and reasons for wanting to receive proxies;
- 4 (5) A director who has a conflict of interest on any issue
5 before the board shall disclose the nature of the
6 conflict of interest prior to a vote on that issue at
7 the board meeting, and the minutes of the meeting
8 shall record the fact that a disclosure was made;
- 9 (6) The apartment owners shall have the irrevocable right,
10 to be exercised by the board of directors, to have
11 access to each apartment from time to time during
12 reasonable hours as may be necessary for the operation
13 of the property or for making emergency repairs
14 therein necessary to prevent damage to the common
15 elements or to another apartment or apartments;
- 16 (7) An owner shall not act as an officer of an association
17 and an employee of the managing agent employed by the
18 association;
- 19 (8) An association's employees shall not engage in selling
20 or renting apartments in the condominium in which they
21 are employed except association-owned units, unless



1 such activity is approved by an affirmative vote of
2 sixty-five per cent of the membership;

3 (9) The board of directors shall meet at least once a
4 year. Whenever practicable, notice of all board
5 meetings shall be posted by the resident manager or a
6 member of the board in prominent locations within the
7 project seventy-two hours prior to the meeting or
8 simultaneously with notice to the board of directors;

9 (10) Directors shall not expend association funds for their
10 travel, directors' fees, and per diem, unless owners
11 are informed and a majority approve of these expenses;

12 (11) Associations at their own expense shall provide all
13 board members with a current copy of the association's
14 declaration, bylaws, house rules, and, annually, a
15 copy of this chapter with amendments;

16 (12) The directors may expend association funds, which
17 shall not be deemed to be compensation to the
18 directors, to educate and train themselves in subject
19 areas directly related to their duties and
20 responsibilities as directors; provided that the
21 approved annual operating budget shall include these



1 expenses as separate line items. These expenses may
2 include registration fees, books, videos, tapes, other
3 educational materials, and economy travel expenses.
4 Except for economy travel expenses within the State,
5 all other travel expenses incurred under this
6 subsection shall be subject to the requirements of
7 paragraph (10);

8 (13) A lien created pursuant to section 514A-90 may be
9 enforced by the association in any manner permitted by
10 law, including nonjudicial or power of sale
11 foreclosure procedures authorized by chapter 667;
12 [~~and~~]

13 (14) If the bylaws provide for cumulative voting by the
14 owners, the owners may so vote if an owner gives
15 notice of the owner's intent to cumulatively vote
16 before voting commences[~~-~~]; and

17 (15) No person shall be elected as a member of a board of
18 directors of a condominium for more than two
19 consecutive full terms; provided that this paragraph
20 shall not be construed to limit the service of a



1 holdover member if no person seeks candidacy for the
2 holdover member's position.

3 The provisions of this subsection shall be deemed incorporated
4 into the bylaws of all condominium projects existing as of
5 January 1, 1988, and all condominium projects created after that
6 date."

7 SECTION 3. Section 514B-107, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§514B-107 Board; limitations.** (a) Members of the board
10 shall be unit owners or co-owners, vendees under an agreement of
11 sale, a trustee of a trust which owns a unit, or an officer,
12 partner, member, or other person authorized to act on behalf of
13 any other legal entity which owns a unit. There shall not be
14 more than one representative on the board from any one unit.

15 (b) No resident manager or employee of a condominium shall
16 serve on its board.

17 (c) An owner shall not act as an officer of an association
18 and an employee of the managing agent retained by the
19 association. Any owner who is a board member of an association
20 and an employee of the managing agent retained by the
21 association shall not participate in any discussion regarding a



1 management contract at a board meeting and shall be excluded
2 from any executive session of the board where the management
3 contract or the property manager will be discussed.

4 (d) Directors shall not expend association funds for their
5 travel, directors' fees, and per diem, unless owners are
6 informed and a majority approve of these expenses; provided
7 that, with the approval of the board, directors may be
8 reimbursed for actual expenditures incurred on behalf of the
9 association. The minutes shall reflect in detail the items and
10 amounts of the reimbursements.

11 (e) Associations at their own expense shall provide all
12 board members with a current copy of the association's
13 declaration, bylaws, house rules, and, annually, a copy of this
14 chapter with amendments.

15 (f) The directors may expend association funds, which
16 shall not be deemed to be compensation to the directors, to
17 educate and train themselves in subject areas directly related
18 to their duties and responsibilities as directors; provided that
19 the approved annual operating budget shall include these
20 expenses as separate line items. These expenses may include
21 registration fees, books, videos, tapes, other educational



1 materials, and economy travel expenses. Except for economy
2 travel expenses within the State, all other travel expenses
3 incurred under this subsection shall be subject to the
4 requirements of subsection (d).

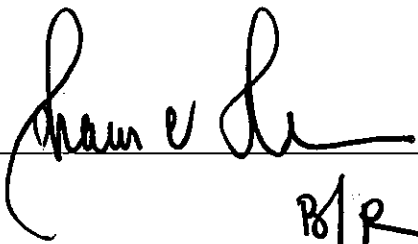
5 (g) No person shall be elected as a member of a board of
6 an association for more than two consecutive full terms;
7 provided that this subsection shall not be construed to limit
8 the service of a holdover member if no person seeks candidacy
9 for the holdover member's position."

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval;
13 provided that members of a board of directors subject to this
14 Act who have served for more than two consecutive full terms may
15 continue to serve until the next regularly scheduled election of
16 directors.

17

INTRODUCED BY:


B/R

JAN 23 2015



H.B. NO. 670

Report Title:

Condominium Property Regimes; Board of Directors; Term Limits

Description:

Establishes term limits on board of director members for planned community associations and condominiums.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

